

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #4	CCRB Case #: 201508347	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/02/2015 5:01 AM	Location of Incident: East 127th Street and Park Avenue	Precinct: 25	18 Mo. SOL 4/2/2017	EO SOL 4/2/2017	
Date/Time CV Reported Fri, 10/02/2015 10:26 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 10/02/2015 10:26 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Mario Morales	02932	925776	025 PCT
2. POM Edwin Lau	06902	950730	025 PCT
3. POM Santiago Inoa	11409	951839	025 PCt
4. Officers			025 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Mario Morales	Force: Sergeant Mario Morales used physical force against § 87(2)(b)	
B.SGT Mario Morales	Discourtesy: Sergeant Mario Morales spoke discourteously to § 87(2)(b) and individuals.	
C.POM Edwin Lau	Discourtesy: Police Officer Edwin Lau spoke discourteously to several individuals	
D. Officers	Discourtesy: Officers spoke discourteously to several individuals.	
E. Officers	Abuse: Officers threatened several individuals with the use of force.	
F.SGT Mario Morales	Abuse: Sergeant Mario Morales threatened to arrest several individuals.	
G.POM Edwin Lau	Abuse: Police Officer Edwin Lau threatened to arrest several individuals.	
H.POM Santiago Inoa	Abuse: Police Officer Santiago Inoa threatened to arrest § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
I. Officers	Abuse: Officers refused to provide their names to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On October 2, 2015, § 87(2)(b) and § 87(2)(b) filed separate complaints with the CCRB via the online website. The complaints were all filed regarding the same incident, involving § 87(2)(b) and several other homeless individuals. § 87(2)(g)

At approximately 5:00 a.m. on October 2, 2015, a group of homeless individuals was sleeping outside of the Harlem Choir Academy, a school located at the intersection of East 127th Street and Park Avenue, in Manhattan. The group included § 87(2)(b) and § 87(2)(b) as well as § 87(2)(b) and § 87(2)(b).

The homeless individuals were distributed into two groups, with one positioned near the corner, and another further along East 127th Street, in the middle of the block. They were approached by a group of Parks Department workers, led by § 87(2)(b) and three uniformed officers from the 25th Precinct: Sgt. Mario Morales, PO Santiago Inoa, and PO Edwin Lau. The Parks Department workers brought a garbage truck with them to the location. The operation was conducted at the direction of Sgt. Morales. When the police officers and Parks workers arrived at the location, the homeless individuals were told that they had to leave the area. They were also told that any belongings left behind would be confiscated. The Parks employees then began to confiscate the homeless individuals' belongings before they had a chance to leave the area. Once taken, these belongings were thrown into the garbage truck and destroyed.

Several of the homeless individuals protested the actions of the officers and the Parks workers. § 87(2)(b) alleged that Sgt. Morales kicked him when he tried to place his belongings in a shopping cart (**Allegation A**). Multiple individuals also alleged that officers cursed at them, threatened to arrest them, and threatened to use force against them as they were gathering their belongings (**Allegations B through H**). § 87(2)(b) alleged that he asked several officers for their names, but received no response (**Allegation I**). Eventually, all of the homeless individuals left the location. None of them were arrested or issued summonses.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Video Evidence

Video of the incident was obtained from the school's security cameras (See Board Review #2-4: Video Evidence). Clips from these videos have been attached below in the analysis section.

Mediation, Civil and Criminal Histories

- This case was ineligible for mediation due to lawsuits filed by § 87(2)(b) and § 87(2)(b).
- § 87(2)(b) and § 87(2)(b) filed separate notices of claim regarding the incident on § 87(2)(b). They allege unlawful seizure of property and emotional distress, and seek compensation for their lost property (Board Review #5-7: Notices of Claim).
- A request to the Comptroller's office on May 2, 2016 showed that none of the other civilians filed notice with the city in regards to this incident.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b).
- § 87(2)(b) filed a previous complaint, § 87(2)(b).
- Individuals named § 87(2)(b) have been involved in five other CCRB complaints.
§ 87(2)(g)
[REDACTED]
- Sgt. Morales has been a member of the service for sixteen years and there is one substantiated CCRB allegation against him. In case #201102032, a question allegation was substantiated against Sgt. Morales. He received instructions. He has been the subject of twenty allegations in total, as part of nine separate complaints. This is the first seizure or damage of property allegation pleaded against him.
- PO Lau has been a member of the service for four years and there are no substantiated CCRB allegations against him. The one previous complaint against him, a gun pointed allegation, was closed as complaint withdrawn.
- PO Inoa has been a member of the service for four years and there are two substantiated CCRB allegations against him. In case #201500005, frisk and discourtesy allegations

were substantiated against him. He received formalized training. A search allegation was also unsubstantiated against him. No other complaints have been filed against PO Inoa.

Attempts to Contact Civilians

- Given that the victims in this complaint were all homeless, contacting them proved difficult. Most of the victims have worked in the past with § 87(2)(b), a nonprofit organization active in Harlem. Their office is located at § 87(2)(b), in Manhattan. § 87(2)(b) and § 87(2)(b) filed their complaints with the assistance of § 87(2)(b). § 87(2)(b) maintains regular contact with the homeless community in the area. Representatives of the organization were able to track down § 87(2)(b) and § 87(2)(b) and facilitate their interviews. § 87(2)(b) was not able to locate several other victims, including § 87(2)(b) and § 87(2)(b).
- § 87(2)(b) identified § 87(2)(b) as a victim. § 87(2)(b) was unable to locate § 87(2)(b). A search of the NYC Department of Correction's website found that § 87(2)(b) is not incarcerated. According to records from the Department of Homeless Services, § 87(2)(b) is not currently enrolled in the shelter system. § 87(2)(b) went to a shelter intake facility on § 87(2)(b) but was sent to § 87(2)(b) due to a medical issue. There is no recorded contact with § 87(2)(b) after that time. On April 15, 2016, a DHS records request indicated that § 87(2)(b) had left an emergency contact telephone number for an individual named "§ 87(2)(b)". When called, this number was found to be out of service. A CLEAR search revealed no additional contact information for "§ 87(2)(b)". To date, § 87(2)(b) has not reached out to the CCRB.
- On § 87(2)(b), § 87(2)(b) filed a lawsuit regarding the incident on behalf of § 87(2)(b), § 87(2)(b) and § 87(2)(b). They were also identified as victims in separate suits for the same incident. Neither § 87(2)(b) nor § 87(2)(b) had been previously identified by any of the other victims. All three individuals were represented in their suit by § 87(2)(b). § 87(2)(b) During a telephone call on December 23, 2015, § 87(2)(b) stated that she was in regular contact with § 87(2)(b) and § 87(2)(b) but declined to disclose her means of contact, or allow the undersigned investigator to contact them independently. § 87(2)(b) stated that she would speak with § 87(2)(b) and § 87(2)(b) and attempt to schedule an interview with them. Between January 8, 2016 and January 19, 2016, three follow-up calls were made to § 87(2)(b) regarding these interviews. Messages were left on each occasion. On January 27, 2016, § 87(2)(b) called and scheduled an interview for January 28, 2016. On the day of the interview, however, she stated that she could only produce § 87(2)(b) who had already provided a statement regarding the incident. On January 29, 2016, she called and stated that she was unable to produce § 87(2)(b) or § 87(2)(b) at that time. On February 2, 2016, a final call was made to § 87(2)(b). A voicemail was left. A search of the NYC Department of Correction's online inmate database showed that neither § 87(2)(b) nor § 87(2)(b) is currently incarcerated. A request to DHS showed that § 87(2)(b) is not enrolled in the shelter system. It also showed that there are more than twenty individuals in the system named § 87(2)(b). Since § 87(2)(b) did not provide § 87(2)(b) date of birth, he cannot be positively identified as any of these individuals. To date, neither § 87(2)(b) nor § 87(2)(b) has reached out to the CCRB.

Findings and Recommendations

Explanation of Subject Officer Identification

- Several of the civilians involved identified the officers that they interacted with by name. In their initial complaints, § 87(2)(b) gave one of the subject officer's names as "Shin," while § 87(2)(b) gave two other officers' names as "Dalia" and "Antola." These three names correspond to PO Kihwan Shin, PO Michael Dalia and PO Elizabeth Antola, all of whom are Impact officers assigned to Patrol Borough Manhattan North. § 87(2)(b) also identified a sergeant who was present as "O'Reilly." None of the other civilians provided names for any of the officers. A review of PO Shin's, PO Dalia's and PO Antola's memo books showed that they were not on duty at the time of the incident (See Board Review #10-12: Memo Books). None of these officers were listed on the 25th Precinct roll call during the incident. No officers named "O'Reilly" were found, either (See Board Review #13: 25th Precinct Roll Call). A review of the video footage from the incident showed that three uniformed officers in an unmarked vehicle were present during the incident. Uniformed officers in unmarked cars are consistent with officers assigned to the Conditions Unit. A review of the roll call showed that Sgt. Morales, PO Inoa and PO Lau were assigned to Conditions at the time of the incident. All three officers confirmed that they were present during the incident, and that no other officers accompanied them.
- § 87(2)(b) alleged that a Hispanic officer wearing a gold shield used profanity, attempted to pull a bag from his hands, and kicked him. Only sergeants' shields are gold in color. Sgt. Morales, a Hispanic male, was the only sergeant at the location. § 87(2)(g)
- § 87(2)(b) alleged that several officers threatened to arrest multiple homeless individuals, telling them, "Take a fucking walk or we're going to lock you up again." He could not describe the officers who made this statement, or attribute this statement to a particular officer. Sgt. Morales and PO Lau both stated that they informed the homeless individuals that they would be arrested for trespassing if they did not leave. PO Inoa denied doing so himself. § 87(2)(g)
- § 87(2)(b) alleged that several officers used profanity towards the homeless individuals, and threatened to physically drag them away from the school. These remarks were not directed towards any specific individual. § 87(2)(b) could not describe these officers or attribute these statements to any specific officer. None of the other civilians mentioned these allegations, and the officers all denied making such statements. § 87(2)(g)
- § 87(2)(b) alleged that a Parks worker attempted to pull his shopping cart away from him as he tried to pack up belongings. When he pulled back at the cart, an officer told him, "Let go of that or I'm gonna lock you up." He described this officer as a 6'2" Hispanic male. He also described another officer present as a 5'4" Hispanic male. Of the officers present, Sgt. Morales and PO Inoa are both Hispanic. Sgt. Morales is 5'4" tall, while PO Inoa is 6'. PO Inoa also stated that he intervened in a dispute between a Parks worker and a civilian over a shopping cart. § 87(2)(g)
- § 87(2)(b) alleged that he asked several officers for their names, but that they did not respond. § 87(2)(b) did not recall which officers he made this request to, and was unable to describe them. None of the other civilians made this allegation, and the officers denied this interaction. § 87(2)(g)

Allegations Not Pleaded

- While § 87(2)(b) alleged that his property was seized and destroyed by a police officer, all other testimony, as well as the video evidence, indicates that the homeless individuals' property was only handled by the Parks Department workers. It is undisputed that at the time of the incident, the Parks Department and the police conducted these operations on numerous instances at different locations within the 25th Precinct. While Sgt. Morales and § 87(2)(b) both confirmed that Sgt. Morales guided the Parks Department workers to the school, the Parks Department workers conducted themselves in the same manner that they had during previous operations. § 87(2)(g)
- § 87(2)(b) and § 87(2)(b) alleged that officers woke him and the other homeless individuals up by kicking their feet and poking their feet with batons. § 87(2)(b) stated that these actions did not cause injuries, and described them more as prodding motions meant to rouse them, rather than cause pain. § 87(2)(b) initially stated that nobody was injured, but later stated that another homeless individual, § 87(2)(b) suffered an unspecified injury. He did not know the nature of the injury or how § 87(2)(b) received it, but stated that after the incident, § 87(2)(b) went to the hospital to have the injury examined. § 87(2)(g)
- § 87(2)(b) alleged in his initial complaint that when he was awoken, PO Kihwan Shin was holding a canister of pepper spray, and threatened to use it if he did not get up. During his interview, however, he stated that the officers woke the group up by shining flashlights on them, and did not mention any pepper spray. No other civilians mentioned officers holding pepper spray, or threatening to use pepper spray. Furthermore, as mentioned above, PO Shin was determined to have been off-duty at the time of the incident. § 87(2)(g)
- In his interview, § 87(2)(b) stated that after the homeless individuals left the school, they went to a location underneath the Metro North train tracks at East 125th Street and Park Avenue. The same officers who had spoken to them at the school then approached them. He stated that the removal and subsequent disposal of the property occurred under the train tracks, and did not occur at the school. In his initial complaint, however, § 87(2)(b) stated that the removal occurred at the school. He made no mention of any incident at the train tracks. All of the other accounts, including civilians and officers, indicate that the removal occurred at the school, and made no mention of any such incident at the tracks. The Parks Department Driver's Daily Reports make no mention of any trips to East 125th Street and Park Avenue (Board Review #14: Parks Department Reports). § 87(2)(g)
- § 87(2)(b) also indicated during his interview that an officer dragged him across the ground, causing abrasions to his left elbow. He was then placed under arrest. During that same statement, however, § 87(2)(b) also stated that he walked away from the incident, and was never arrested. § 87(2)(b) made no mention of being dragged

across the ground or arrested in his initial complaint. All of the other accounts, including civilians and officers, indicate that nobody was dragged across the ground or arrested.

§ 87(2)(g)

Allegation A -Force: Sergeant Mario ##### used physical force against § 87(2)(b)

Allegation B - Discourtesy: Sergeant Mario ##### spoke discourteously to § 87(2)(b) and individuals.

Allegation C – Discourtesy: Police Officer Edwin Lau spoke discourteously to several individuals.

Allegation D – Discourtesy: Officers spoke discourteously to several individuals.

Allegation E– Abuse of Authority: Officers threatened several individuals with the use of force.

§ 87(2)(b) was initially interviewed at the § 87(2)(b) via teleconference on December 18, 2015. § 87(2)(b) cut this interview short due to a medical issue (See Board Review #15: § 87(2)(b)'s First Statement). A second teleconference interview was held on January 5, 2016 to complete his statement (See Board Review #16: § 87(2)(b)'s Second Statement). § 87(2)(b) alleged in his first interview that when his friend § 87(2)(b) attempted to assist him in packing his belongings, Sgt. Morales tried to pull the bag away from, and kicked him when he would not let go. In his second interview, however, he stated that another individual, § 87(2)(b) was actually the one who was helping him pack. He also stated that he himself was the individual who engaged in a physical struggle, rather than § 87(2)(b). § 87(2)(b) denied suffering any injuries as a result of the struggle. He further alleged in his second interview that throughout the incident, Sgt. Morales used profanity towards several individuals, stating, “Grab y’all shit,” and, “What the fuck is wrong with you?”

§ 87(2)(b) was interviewed at the § 87(2)(b) via teleconference on November 6, 2015 (See Board Review #17: § 87(2)(b)'s Statement). § 87(2)(b) alleged that several officers, whom he could not describe, made several remarks to the homeless individuals. These remarks included: “Get the fuck off this fucking block,” “Fuck it, let’s just drag them away,” “We will drag them away and we will do what we got to do,” “Y’all a fucking disgrace to the street, you fucking mopes,” “Get the fuck out of our way,” “Take a fucking walk or we’re gonna lock you up again,” and, “You should fucking die in a sewer somewhere.” These remarks were made by multiple officers, and addressed to multiple homeless individuals.

§ 87(2)(b) was interviewed at § 87(2)(b) on October 16, 2015 (See Board Review #18: § 87(2)(b)'s Statement). § 87(2)(b) was interviewed at § 87(2)(b) on October 22, 2015 (See Board Review #19: § 87(2)(b)'s Statement). § 87(2)(b) was interviewed at § 87(2)(b) on October 22, 2015 (See Board Review #20: § 87(2)(b)'s Statement). None of these individuals alleged that officers used profanity, used physical force, or threatened to use physical force during the incident. While several of the homeless individuals alleged that they engaged in physical struggles over property with the Parks workers, they denied that the police intervened in any of these struggles. § 87(2)(b) was interviewed at the CCRB on March 9, 2016 (See Board Review #21: § 87(2)(b)'s Statement). She denied that any of the police officers used force or profanity, or threatened to use force against any of the homeless individuals.

Sgt. Morales was interviewed at the CCRB on December 16, 2015 (See Board Review #22: Sgt. Morales' Statement). PO Lau was interviewed at the CCRB on March 22, 2016 (See Board Review #23: PO Lau's Statement). PO Inoa was interviewed at the CCRB on March 31, 2016

(See Board Review #24: PO Inoa's Statement). All three officers all denied that any police officer made any kind of physical contact with any of the homeless individuals during the incident. They all denied that they or any other officer used any sort of profanity or threatened to use force when speaking to the homeless individuals. Sgt. Morales and PO Lau both stated that they threatened to arrest the homeless individuals, but did not use profanity while making these statements.

The incident was recorded on three security cameras posted on the exterior of the Harlem Choir Academy. The first camera, #E1-27, is posted on the southeast corner of the building, near the intersection of East 127th Street and Park Avenue. The timestamp on this footage indicates that it takes place between 5:00 a.m. and 5:14 a.m. In it, Parks Department workers can be seen removing items from an area obscured by shadows. No direct interactions between the police and the homeless individuals are captured.



201508347 - Camera E1-27.mp4

The second camera, #E1-28, is posted further up the block, between Madison Avenue and Park Avenue. This view shows the street, but does not show the overhang in front of the school where the various homeless individuals were sleeping. The timestamp on this footage indicates that it takes place between 5:14 a.m. and 5:21 a.m. While the homeless individuals are not recorded on this video, Parks Department workers can be seen removing items from the side of the school and carrying them to the street. No direct interactions between the police and the homeless individuals are captured.



201508347 - Camera E1-28.mp4

The final camera, #E1-44, is posted by camera #E1-28. It, however, shows an area underneath the overhang, where several individuals are seen sleeping. The timestamp on this footage indicates that it takes place between 5:15 a.m. and 5:30 a.m. A single uniformed officer is seen speaking to a homeless individual. No struggles between any parties are seen in this video. The uniformed officer does not remove any of the homeless individuals' possessions.



201508347 - Camera E1-44.mp4

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation F – Discourtesy: Sergeant Mario Morales threatened to arrest several individuals.
Allegation G – Discourtesy: Police Officer Edwin Lau threatened to arrest several individuals.

It is undisputed that the homeless individuals were sleeping on school grounds.

As mentioned above, § 87(2)(b) alleged that officers told several homeless individuals, “Take a fucking walk or we’re gonna lock you up again.” None of the other civilians alleged that any such broad threat was made to the group. PO Inoa did not recall any officers telling any of the civilians that they would be arrested during the incident.

Sgt. Morales and PO Lau, however, both stated that they informed several homeless individuals that they would be placed under arrest if they did not leave the location. Both explained that since the homeless individuals were on school grounds after-hours, they were considered to be trespassing. Both officers further stated that had the homeless individuals refused to leave, they would have been arrested for trespassing. Neither cited any other offenses beyond trespassing that the homeless individuals could have been arrested for. The officers also stated that they did not ultimately arrest the individuals, as their primary goal was only to get them to leave the location.

According to New York Penal Code §140.10, a person is guilty of criminal trespass in the third degree when he knowingly enters and remains in a building or upon real property where the building is utilized as an elementary or secondary school (See Board Review #25: Legal Reference).

§ 87(2)(g)

Allegation H –Abuse of Authority: Police Officer Santiago Inoa threatened to arrest § 87(2)(b):

§ 87(2)(b) alleged that when he tried to remove his belongings from the location in a shopping cart, one of the Parks workers attempted to pull the cart away from him. When § 87(2)(b) pulled back on the cart, PO Inoa told him, “Let go of that or I’m gonna lock you up.” § 87(2)(b) then

released the cart. The Parks worker then emptied its contents into the garbage truck. None of the other civilians mentioned this allegation.

PO Inoa stated that he observed a civilian struggling with a Parks worker for control of a shopping cart. He intervened, telling the Parks worker to allow the civilian to remove cart. The civilian then left with the cart. He denied telling the homeless individual that they would be arrested. PO Lau observed a similar struggle between a Parks worker and a civilian, but stated that the worker wrested control of the cart and threw its contents into the garbage truck. He denied witnessing any officers intervene in this interaction. Sgt. Morales made no mention either of any such interaction during this statement, or of any officer besides himself threatening to arrest any of the homeless individuals.

§ 87(2)(g)

Allegation I –Abuse of Authority: Officers refused to provide their names to § 87(2)(b)

§ 87(2)(b) alleged that as the officers were removing the homeless individuals' items, he asked several for their names. He did not recall which officers he asked for their names, and was not able to describe them. The officers did not respond, and instead covered their nameplates with their hands. None of the other civilians mentioned any such interaction. None of the officers recalled being asked for their names at any point. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(4-b), § 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date